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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 I.T. PRODUCTIONS, LLC,

9 Plaintiff,

10 v.

11 JOHN SEARLE, et al.,

12 Defendants.

C16-1775 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Plaintiff's motions for entry of default as to defendants Scott Gifford, Tho
16 Sam, and William Stitt, docket nos. 54, 56, and 60, are GRANTED, and default is hereby
17 ENTERED as to such defendants. The Court, however, will not enter default judgment
18 against such defendants unless plaintiff files the affidavit concerning military service that
19 is required by 50 U.S.C. § 3931(b)(1).

20 (2) Plaintiff's motion for entry of default as to defendant Dona Fristoe, docket
21 no. 52, is DENIED. The process server has indicated that he left the summons with Dona
22 Fristoe (not Fristoe).

23 (3) Plaintiff's motions for entry of default as to defendants Kent Browning,
Ryan Caruso, Kenneth Christian, and John Searle, docket nos. 46, 48, 50, and 58, are
DENIED. As to each of these defendants, the summons was left with a co-resident,
who (with one exception) has a different last name and does not appear to be a family
member. Although plaintiff has complied with the technical requirements for service of
process, the Court is unwilling to enter default without a showing that such defendants
actually received the summons and complaint. Given the nature of plaintiff's claims,
which are based on particular Internet Protocol addresses that might be used by persons

1 in a household other than defendants, co-residents might not have the requisite incentive
2 to ensure that the summonses and complaints at issue reached their intended recipients.
3 Moreover, even if the Court were to enter default without a further showing of actual
4 service, the Court would not be inclined to grant default judgment as to these defendants
5 absent proof that they themselves engaged in the copyright infringement at issue.

6 (4) The docket reflects that defendants Phillip Abatayo and Theresa Nelson,
7 who are represented by counsel, and defendant Andrew Howard have not yet filed a
8 responsive pleading or motion, but that plaintiff has not sought entry of default, or
9 voluntarily dismissed its claims, as to these defendants. Plaintiff is therefore DIRECTED
10 to show cause by June 16, 2017, why this case should not be dismissed without prejudice
11 for failing to comply with the Order requiring Joint Status Report signed on
12 November 29, 2016, docket no. 8, as amended on March 20, 2017. Absent a timely
13 response to this Minute Order, this action will be DISMISSED without prejudice.

14 (5) The Clerk is directed to send a copy of this Minute Order to all counsel of
15 record.

16 Dated this 1st day of June, 2017.

17 William M. McCool
18 Clerk

19 s/Karen Dews
20 Deputy Clerk